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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,961	07/29/2003	Charles M. Minnix	MNX-P002-US-01	6177
27268	7590	02/15/2005	EXAMINER	
BAKER & DANIELS 300 NORTH MERIDIAN STREET SUITE 2700 INDIANAPOLIS, IN 46204-1782			LAWRENCE JR, FRANK M	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/628,961

Applicant(s)

MINNIX, CHARLES M.

Examiner

Frank M. Lawrence

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 and 26-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-37 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (3).
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: in paragraph 25, "mozzle" should be changed to "nozzle".

Appropriate correction is required.

Election/Restrictions

2. Claims 1-19 and 26-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 10, 2005.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 20 and 23 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 13 of copending Application No. 10/207,142. Although the conflicting claims are not identical, they are not patentably distinct from each other because one having ordinary skill in the art would know that

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clean water is usually produced by some type of treatment and that ozone impregnation must take place in some type of ozone impregnator.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Perkins et al. (6,802,984).

7. Perkins et al. '984 teach a method of disinfecting raw water, comprising filtering the raw water in filter units (FF, PF), pumping the cleaned water into a first tank (T1), passing the water from the tank to an ozone impregnator (venturi), monitoring the ozone level to maintain a desired minimum, transferring the ozonated water into a second tank (T2), a recirculating water from the second tank back to the first tank for continued ozone treatment in a loop (see figures, col. 5, line 65 to col. 6, line 23, col. 13, line 5 to col. 14, line 20).

8. Claims 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Mausgrover et al. (5,427,693).

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9. Mausgrover et al. '693 teach a method of disinfecting raw water, comprising cleaning raw water in an inlet filter (18a), pumping the clean water with a pump (31) into an expansion tank (20), passing water from the expansion tank to an ozone impregnator (38), transferring ozonated water into an infusion chamber (40) and a UV chamber (60) that each meet the limitation of a holding tank, pumping the water back to the expansion tank for further ozone treatment, and maintaining a desired ozone level in the water using an ozone sensor (71) and control system (32) (see figure 3, col. 6, lines 37-61, col. 7, lines 1-10, col. 8, lines 8-45).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mausgrover et al. '693 in view of Contreras (5,824,243).

12. Mausgrover et al. '693 disclose all of the limitations of the claim except that excess ozone from the holding tank is recycled to the ozone impregnator. Contreras '243 discloses a water ozonization system comprising a holding tank (2) having a vent (26) for collecting excess ozone and reinjecting it into water in a recirculation loop (25) via a venturi. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system of Mausgrover et al. '693 by using an excess ozone collection vent in order to provide a means to capture and reuse excess ozone, thus leaving no waste (col. 4, lines 11-15).

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13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mausgrover et al. '693 in view of Olsen (5,683,576).

14. Mausgrover et al. '693 disclose all of the limitations of the claim except that sterilized water is pumped to an outlet in communication with an outside demand when a demand is determined. Olsen '576 discloses a water ozonization treatment apparatus, comprising a pump (92) having an inlet opening fluidly connected to a raw water source (52) via a recirculation line (78) and holding tank (80), an ozone generator (18) with an ozone injector (38) for injecting ozone into the contact tank, and a switching valve (98) in communication with the pump and having a first and second position to divert fluid to an outside demand in response to a signal (col. 8, lines 54-60) or a recycle to the contact tank to be reinjected with ozone (figures, col. 4, lines 25-38, col. 5, lines 25-48, col. 6, lines 10-48). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the outlet of Mausgrover et al. '693 by using a means for directing treated water to an outside demand in order to provide an automated control for treated discharge, eliminating the need for a person to monitor treatment and demand and operate the discharge system.

15. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mausgrover et al. '693 in view of Cohen et al. (4,595,498).

16. Mausgrover et al. '693 disclose all of the limitations of the claims except that the treatment step includes reverse osmosis filtering and demineralizing in a softener. Cohen et al. '498 disclose a water treatment loop comprising ozone injection with pretreatment steps that include ion exchange (210) and membrane filtration (220). It would have been obvious to one having ordinary skill in the art to modify the pretreatment step of Mausgrover et al. '693 by

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including demineralizing and membrane filtration in order to provide steps that increase resistivity and remove small scale particles in addition to killing bacteria present in the water, thus providing a cleaner treated water product.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additional references listed on the attached PTO-892 form disclose water treatment systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is 571-272-1161. The examiner can normally be reached on Mon-Thurs 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank M. Lawrence
Primary Examiner
Art Unit 1724

Frank Lawrence
2-11-05

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